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Notice of Allowability	Application No.	Applicant(s)	
	10/620,713	MOORE, SCOTT E.	
	Examiner	Art Unit	
	Richard A. Rosenberger	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper filed 12/23/2004.
2. ☒ The allowed claim(s) is/are 46-65.
3. ☒ The drawings filed on 15 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>see attached</u> . | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

1. The following is an examiner's statement of reasons for allowance:
2. The rejection in the previous office actions was based upon an understanding that the term "sacrificial layer" in independent claims 46, 52 and 59 was a statement of intended use rather than a structural feature, and thus could be read on any layer that otherwise meets the structural requirements of the claims (e.g., being a different color). In the remarks filed 23 December 2005, applicant states that this is not correct, that the "sacrificial marker layer is also a structural feature" (remarks, page 8, lines 4-5) and gives what appears to be, and appears to be intended to be, a kind of definition of that term: "because the material of the sacrificial marker layer does not need to be used in the operation of the circuitry" (remarks, page 8, lines 5-7). This understanding of the term "sacrificial layer", on the record in the remarks, is that those of ordinary skill can, by examining the structure itself, determine whether or not any layer in a microelectronic substrate assembly, on the basis of whether or not it does or does not "need to be used in the operation of the circuitry", is or is not a "sacrificial layer". Based upon this argument of the meaning of "sacrificial layer" as an actual structural feature of the microelectronic substrate assembly that is defined by the structure of the assembly itself and not merely by the intended use of the layer by the person making or using substrate assembly, claims 46-65 are allowable over the art of record.
3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Receipt is acknowledged of the information disclosure statements filed 14 January 2004, 15 March 2004, and 21 October 2004.

The information disclosure statements received have been placed in the application file, and the information referred to therein has been considered as to the merits. See the attached forms PTO-1449. Two of the listed referenced have been lined through and not considered because the patent number and named patentee do not match and the subject matter of the patents with the listed patent numbers appear not to be relevant, and it is not clear what documents were intended to be cited.

The numerous references and materials listed on the submitted eleven sheets of the IDS's, with over two hundred listed documents, make it difficult to determine whether or not any of the references, or parts of the references, are material to applicants' claimed invention. It is noted that applicants, in their several IDS submissions, do not indicate any particular reference or parts of references which they deem "material" to the patentability of the pending claims under 37 CFR 1.56(b).

Applicants are reminded of the standard set forth in the leading inequitable conduct case of *J.P. Stevens & Co. v. Lex Tex Ltd.*, 747 F.2d 1553, 223 USPQ 1089 (Nov. 9, 1984), cert. denied, 106 S.Ct. 73 (1985): Where none of the prior art cited during prosecution teaches a key element of the claim(s) and where a reference known to the applicants does, the applicants should know that reference is material. Thus, if applicants are aware of any cited reference from

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among the submitted information disclosure(s) that are "material," applicants should make that reference known to the examiner.

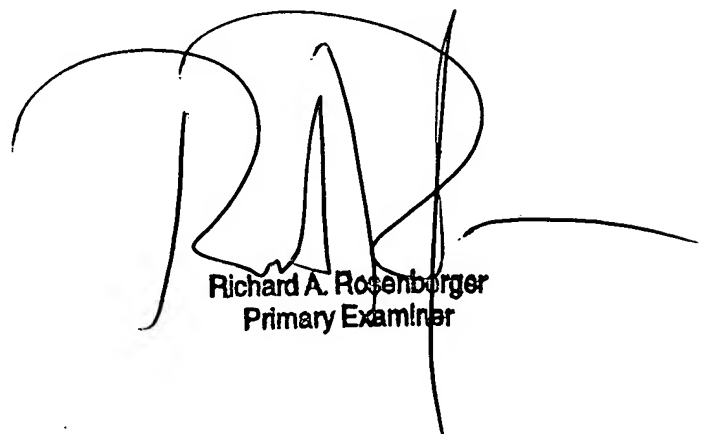
It is also noted that a "misrepresentation is material if it makes it impossible for the Patent Office fairly to assess [the patent] application against the prevailing statutory criteria." In re Multidistrict-Litig. Involving Forst Patent, 540 F.2d 601, 604, 191 USPQ 241, 243 (3d Cir. 1976); see also Monsanto Co. v. Rohm & Haas Co., 456 F.2d 592, 600, 172 USPQ 323, 329 (3d Cir.), ce.rt. denied, 40'7 U.S. 934, 174 USPQ 129 (1972). And, the submission of voluminous documents in the instant information disclosure statements (here, in excess of 200 documents) make it difficult, and likely impossible, for the Patent Office to fairly assess applicants' application against the prevailing statutory criteria.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard A Rosenberger whose telephone number is (571) 272-2428. The examiner can normally be reached on Monday through Friday during the hours of 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

R. A. Rosenberger
15 March 2005



Richard A. Rosenberger
Primary Examiner